

DEPARTMENT OF CONSUMER AND INDUSTRY SERVICES

INSURANCE BUREAU

ADVERTISEMENT OF LIFE INSURANCE AND ANNUITIES

(By authority conferred on the commissioner of insurance by section 210 of Act No. 218 of the Public Acts of 1956, as amended, being S500.210 of the Michigan Compiled Laws)

R 500.1371 Definitions.

Rule 1. As used in these rules:

(a) "Advertisement" means material designed to create public interest in life insurance or annuities or in an insurer, or to induce the public to purchase, increase, modify, reinstate, or retain a policy, including all of the following:

(i) Printed and published material, audiovisual material, and descriptive literature of an insurer used in any of the following:

(A) Director mail.

(B) Newspapers.

(C) Magazines.

(D) Radio and television scripts.

(E) Billboards and similar displays.

(ii) Descriptive literature and sales aids of all kinds issued by an insurer or agent, including, but not limited to, any of the following:

(A) Circulars.

(B) Leaflets.

(C) Booklets.

(D) Depictions.

(E) Illustrations.

(F) Form letters.

(iii) Prepared sales talks, presentations, and material for use by sales personnel and agents.

"Advertisement" does not include communications or materials used within an insurer's own organization and not available for dissemination to the public; communications with policyholders other than material designed to persuade policyholders to purchase, increase, modify, reinstate, or retain a policy; or a general announcement from a group or blanket policyholder to eligible individuals on an employment or membership list that a policy or program has been written or arranged.

(b) "Policy" means any of the following which provides for life insurance or annuity benefits:

(i) A policy.

(ii) A plan.

(iii) A certificate.

(iv) A contract.

(v) An agreement.

(vi) A statement of coverage.

(v) A rider.

(viii) An endorsement.

History: 1984 AACCS.

R 500.1375 Form and contents of advertisements.

Rule 5. (1) Advertisements shall be truthful and not misleading in fact or by implication. The form and content of an advertisement of a policy shall be sufficiently complete and clear so as to avoid deception. Whether an advertisement is misleading or deceptive shall be determined from the overall impression that the advertisement may be reasonably expected to create.

(2) An advertisement shall not use the terms "investment," "investment plan," "expansion plan," "profit," "profits," "profit sharing," "interest plan," "savings," "savings plan," or other similar terms in connection with a policy in a context or under circumstances or conditions which mislead a prospective insured to believe that the prospective insured or beneficiary will or may receive something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

History: 1984 AACCS.

R 500.1377 Disclosure requirements.

Rule 7. (1) The information required to be disclosed by these rules shall not be minimized, rendered obscure, or presented in an ambiguous fashion or intermingled with the text of the advertisement so as to be confusing or misleading.

(2) An advertisement shall not omit material information or use words, phrases, statements, references, or illustrations if such omission or such use is misleading or deceptive to purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable, or state or federal tax consequences. The fact that the policy offered is made available to a prospective insured for inspection prior to consummation of the sale, or an offer is made to refund the premium if the purchaser is not satisfied, does not remedy misleading statements.

(3) If an advertisement uses terms or phrases such as "Non-Medical" or "No Physical Examination Required" or uses similar terms or phrases and if issue is not guaranteed, such terms or phrases shall be accompanied by a further disclosure of equal prominence and nearby to the effect that issuance of the policy will depend upon answers to health questions contained in the application, if such is the fact.

(4) An advertisement shall not use as the name or title of a life insurance policy any phrase which does not include the words "life insurance," unless accompanied by other language clearly indicating it is life insurance.

(5) An advertisement shall prominently describe the type of policy advertised.

(6) An advertisement of an insurance policy marketed by direct response technique shall not state or imply that because there is no agent or commission involved there will be cost savings to prospective purchasers, unless such is the fact.

(7) An advertisement for a policy containing graded or modified benefits shall prominently display any limitation of benefits. If the premium is level and coverage decreases or increases with age or duration, such coverage changes shall be prominently disclosed.

(8) An advertisement for a policy with non-level premiums shall prominently describe the premium changes.

(9) All of the following provisions apply with respect to dividends:

(a) An advertisement shall not utilize or describe dividends in a manner which is misleading.

(b) An advertisement shall not state or imply that the payment or amount of dividends is guaranteed. If dividends are illustrated, they shall be based on the insurer's current dividend scale, and the illustration shall contain a statement to the effect that they are not to be construed as guarantees or estimates of dividends to be paid in the future.

(c) An advertisement shall not state or imply that illustrated dividends under a participating policy or pure endowments, or both, will be or can be sufficient at any future time to assure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains what benefits or coverage would be provided at such time and under what conditions this would occur.

(d) If level benefit insurance is contingent upon dividends providing term insurance or paid-up insurance, or both, any advertisement or illustration shall disclose that insufficient or not dividends will either cause a reduction or elimination of supplemental coverage or that additional premium will be required to keep the original death benefit amount in force.

(10) An advertisement shall not state or imply that a purchaser of a policy will share in or receive a stated percentage or portion of the earnings on the general account assets of the company.

(11) An advertisement shall not contain statistical information relating to any insurer or policy unless it accurately reflects recent and relevant facts and is sufficiently complete and clear so as not to be misleading. The source of any such statistics used in an advertisement shall be identified therein.

(12) All of the following provisions apply with respect to introductory, initial, or special offers and enrollment periods:

(a) An advertisement of an individual policy or combination of such policies shall not state or imply that such policy or combination of such policies is an introductory, initial, or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. An advertisement shall not describe an enrollment period as "special" or "limited" or use similar words or phrases in describing it when the insurer uses successive enrollment periods as its usual method of marketing its policies.

(b) An advertisement shall not state or imply that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised, because of special advantages available in the policy, unless such is the fact.

(c) An enrollment period during which a particular insurance policy may be purchased on an individual basis shall not be advertised within this state unless there has been a lapse of not less than 3 months between the close of the immediately preceding enrollment period for the same policy and the opening of the new enrollment period, but not more than twice in any calendar year. The advertisement shall specify the date by which the applicant shall mail the application, which shall be not less 10 days and not more than 40 days from the date on which such enrollment period is advertised for the first time. This rule applies to all advertising by any 1 insurer, which includes all the affiliated companies of a group of insurance companies under common management or control. This rule does not apply to the use of a termination or cutoff date beyond which an individual application for a guaranteed issue policy will not be accepted by an insurer in those instances where the application has been set to the applicant in response to the applicant's request. It is also inapplicable to solicitation by the group policyholder of employees or members of a particular group or association which otherwise would be eligible under specific provisions of Act No. 218 of the Public Acts of 1956, as amended, being S500.100 et seq. of the Michigan Compiled Laws, for group insurance. In cases where an insurance product is marketed on a direct mail basis to prospective insureds by reason of some common relationship with a sponsoring organization, this rule shall be applied separately to each sponsoring organization.

(13) An advertisement of a particular policy shall not state or imply that prospective insureds shall be or become members of a special class or group and as such enjoy special rates, dividends, or underwriting privileges, unless such is the fact.

(14) An advertisement shall not make unfair or incomplete comparisons of policies, benefits, dividends, or rates of other insurers. An advertisement shall not falsely or unfairly describe other insurers or their policies, services, or methods of marketing.

(15) For individual deferred annuity products or deposit funds, excluding variable annuities and investment annuities, all of the following provisions shall apply:

(a) Any illustrations or statements containing or based upon interest rates higher than the guaranteed accumulation interest rates shall set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. Such higher interest rates shall not be greater than those currently being credited by the company unless such higher rates have been publicly declared by the company with an effective date for new issues not more than 3 months subsequent to the date of declaration. Any illustrations shall be based on gross premiums.

(b) If an advertisement illustrates or states premiums, net interest rates, or accumulative values, the actual relationship between the net and gross premium shall be disclosed in close proximity thereto and with equal prominence, describing the first year and renewal charges, including, but not limited to, expenses and annual contract, collection, and mortality charges.

(c) If any contract does not provide a cash value or return of premium benefit due to surrender or death prior to the commencement of payment of any annuity benefit, any illustration or statements concerning such contracts shall prominently state that these benefits are not provided. Return of premium or cash value shall not be referred to as a death benefit.

History: 1984 AACCS; 1997 AACCS.

R 500.1379 Identification of insurer and policy.

Rule 9. (1) The name of the insurer shall be clearly identified. If any specific individual policy is advertised, it shall be identified either by form number or other appropriate description. An advertisement shall not use a trade name, an insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol, or other device or reference without disclosing the name of the insurer, in equal or greater prominence and in close proximity thereto, if the advertisement would

be misleading or deceptive as to the true identity of the insurer or create the impression that a company other than the insurer has any responsibility for the financial obligation under a policy.

(2) An advertisement or related material shall not use any combination of words, symbols, or physical materials which by their content, phraseology, shape, color, or other characteristics are so similar to a combination of words, symbols, or physical materials used by a governmental program or agency or otherwise appear to be of such a nature that they tend to mislead prospective insureds into believing that the solicitation is in some manner connected with such governmental program or agency.

History: 1984 AACS.

R 500.1381 Advertising beyond limits of licensing jurisdiction; recommendation, endorsement, or rating of insurer by governmental entity.

Rule 11. (1) An advertisement which is intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed shall not imply licensing beyond such limits.

(2) An advertisement may state that an insurer is licensed in the state where the advertisement appears, if it does not exaggerate such fact or suggest or imply that competing insurers may not be so licensed.

(3) An advertisement shall not state or create the impression that the insurer, its financial condition or status, the payment of its claims, or the merits, desirability, or advisability of its policy forms or kinds of plans of insurance are recommended or endorsed by any governmental entity, unless such is the fact. The nature and extent of any recommendation, endorsement, or rating shall be fully explained.

History: 1984 AACS.

R 500.1383 False and misleading statements; recommendation or rating by commercial rating organization.

Rule 13. An advertisement shall not contain statements, pictures, or illustrations which are false or misleading, in fact or by implication, with respect to the assets, liabilities, insurance in force, corporate structure, financial condition, age, or relative position of the insurer in the insurance business. An advertisement shall not contain a recommendation or rating by any commercial rating organization unless it clearly defines the scope and extent of the recommendation or rating.

History: 1984 AACS.

R 500.1385 Advertisements disseminated in state; maintenance of specimen copy; filing with the commissioner; certificate of compliance.

Rule 15. (1) An insurer shall maintain at its home or principal office a complete file containing a specimen copy of printed, published, or prepared advertisements of its policies hereafter disseminated in this state, with a notation indicating the manner and extent of distribution and the form number of any policy advertised. Such file shall be subject to inspection by the commissioner. All such advertisements shall be maintained in the file for a period of either 4 years or until the filing of the next regular report on the examination of the insurer, whichever period is longer.

(2) An insurer subject to the provisions of these rules shall file with the commissioner, with its annual statement, a certificate of compliance executed by an authorized officer of the insurer wherein it is stated, if such is the fact, that to the best of the officer's knowledge, information, and belief, the advertisements which were disseminated by, or on behalf of, the insurer in this state during the preceding statement year, or during the portion of such year when these rules were in effect, complied in all respects with the provisions of these rules and the insurance laws of this state as implemented and interpreted by these rules.

History: 1984 AACS; 1997 AACS.

R 500.1387 Conflict with other rules.

Rule 17. It is not intended that these rules conflict with or supersede any rules currently in force or subsequently adopted in this state governing specific aspects of the sale or replacement of life insurance or

annuities, including, but not limited to, rules dealing with life insurance cost comparison indices, deceptive practices in the sale of life insurance, and replacement of life insurance policies. Consequently, no disclosure required under any such rules shall be deemed to be an advertisement within the meaning of these rules.

History: 1984 AACS.